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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,091	01/18/2006	Leif Stern	HW-8007	5471
26294 7590 08/28/2008 TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1300 EAST NINTH STREET, SUITE 1700 CLEVEVLAND, OH 44114				
EXAMINER DUMAS, NKEISHA J				
ART UNIT 3632		PAPER NUMBER		
MAIL DATE 08/28/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/565,091

**Applicant(s)**

STERN, LEIF

**Examiner**

NKEISHA J. DUMAS

**Art Unit**

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. The following correspondence is a Final Office Action for application number 10/565,091 for a SCREEN FOR HOLDING REFUSE SACKS OPEN, filed on 1/18/2006. This correspondence is in response to applicant's reply filed on 6/30/2008. Claims 1 and 3-11 are pending.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1 and 3-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (U.S. Pat. 4,955,496) in view of Sealy (U.S. Pat. 5,803,299).

Regarding claims 1 and 11, Nelson teaches an apparatus or a screen (10) formed of an elastic material or elastic panel member (polypropylene) and is compressible from a normal shape to a narrower shape (Figs. 1, 3, 11), a refuse sack (14) can be threaded onto the screen or said screen be inserted into said refuse sack when said screen is compressed to a narrower shape, and the screen can be brought to spring out from its narrower shape to its normal shape and thereby stretch the refuse sack (col. 1, lines 20-25), the screen has an elongated shape with a length permitting folding of open parts of the refuse sack into the screen and holding the refuse sack so that the sack can stand upright on a support, and a locking device (46) being distributed along an end portion (top end) of the screen, but does not teach that the locking device

includes pins being uniformly distributed along the end portion of the screen, with the pins extending from the end portion in a direction substantially along the length of the screen.

Sealy, however, teaches a screen (15, Fig. 17) having a locking device including pins (9) being uniformly distributed along an end portion of the screen, the pins extending in a direction substantially along the length of the screen in order to assist and retain a bag on the frame.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to substitute the locking device of Nelson with the locking device of Sealy where pins are uniformly distributed along the end portion of the screen, the pins extending from the end portion in a direction substantially along the length of the screen as an alternate method of holding the refuse bag onto the screen since both locking devices perform the same function of holding the refuse bag onto the screen in order to prevent movement of the bag while loading refuse into the bag.

Regarding claim 3, Nelson and Sealy teach the screen of claim 1 where Nelson teaches that a member (52) is provided to hold the screen in the narrower shape.

Regarding claim 4, Nelson and Sealy teach the screen of claim 1 where Nelson teaches that a second (top) end portion of the screen has at least one handle opening (26) into which parts of the refuse sack are insertable.

Regarding claim 5, Nelson and Sealy teach the screen of claim 1 where Sealy teaches that the pins extend outwards from a said end portion of the screen.

Regarding claim 6, Nelson and Sealy teach the screen of claim 1 where Nelson teaches that the screen in cross section has a semicircular shape (when left partially open).

Although claim 7 recites purely functional limitations, it is nonetheless rejected because Nelson and Sealy teach the screen of claim 1 where Nelson teaches that the screen is capable of permitting a refuse sack to be provided thereon, on a support from which refuse shall be moved into the refuse sack, such that those parts of the refuse sack which extend between two longitudinal edges (22, 24) of the screen and which thereby have a planar shape, can be situated close to and/or engage the support.

Although claim 8 recites functional limitations, it is nonetheless rejected because Nelson and Sealy teach the screen of claim 1 where Nelson teaches that longitudinal edges (20) are capable of being designed or including members for preventing damage of the refuse sack by the longitudinal edges.

Regarding claim 9, Nelson and Sealy teach the screen of claim 1 wherein a strip is hooked onto two longitudinal edges of the screen (Fig. 1).

Regarding claim 10, Nelson and Sealy teach the screen of claim 1 where Nelson teaches that the screen is thin-walled (col. 3, lines 67-68) and consists of polypropylene (col. 3, line 67–col. 4, line 1).

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1 and 3-11 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **NKEISHA J. DUMAS** whose telephone number is (571)272-5781. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **J. Allen Shriver** can be reached on (571) 272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nkeisha J. Dumas/  
Examiner, Art Unit 3632

August 21, 2008

/J. ALLEN SHRIVER II/  
Supervisory Patent Examiner, Art Unit 3632